

## Message Text

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PAGE 01 STATE 186076

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO

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E.O. 11652: N/A

TAGS: CPRS, EG

SUBJECT: US CLAIMS AGAINST THE EGYPTIAN GOVERNMENT

REFS: (A) CAIRO'S 6331, (B) STATE'S 146298, (C) STATE'S

A-1073, (D) STATE'S 151447, (E) CAIRO'S A-1039 OF JUNE 9,

1966, (F) STATE'S 139921

1. THE DEPARTMENT APPRECIATES AND CONCURS IN EMBASSY VIEW THAT USG SHOULD START SOON TO DEVELOP MOMENTUM IN SETTLEMENT OF PRIVATE CLAIMS OF US NATIONALS AGAINST EGYPTIAN GOVERNMENT (GOE) FOLLOWING FORMAL ESTABLISHMENT ON JULY 15, 1974, OF JOINT US/GOE COMMISSION ON CLAIMS. INDEED, IN THE LONG RUN, CONTINUED OPERATION AND IMPLEMENTATION OF THE OPIC GUARANTY PROGRAM, AND THE PROJECTS AND ASSISTANCE UNDER THE 1961 FOREIGN ASSISTANCE ACT BEING DISCUSSED IN THE JOINT US/EGYPTIAN COOPERATION COMMISSION, ARE LEGALLY LIMITED OFFICIAL USE

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PAGE 02 STATE 186076

CONTINGENT UPON SATISFACTORY PROGRESS BEING MADE IN THE

CLAIMS NEGOTIATIONS, OTHERWISE THERE IS LIKELIHOOD OF ADVERSE CONGRESSIONAL CRITICISM AND REACTION.

2. PLEASE CONFIRM WHETHER OFFICIAL DESIGNATION IS JOINT US/GOE "CLAIMS COMMISSION" OR "CLAIMS COMMITTEE," SINCE BOTH USED IN REFTEL (A). TECHNICALLY, A MORE FORMAL STATUS IS IMPLIED IN DESIGNATION "COMMISSION" WHICH MAY BEAR ON DETAILED PROCEDURES, APPLICABLE SUBSTANTIVE LAW, AND RULES OF EVIDENCE WHICH WOULD HAVE TO BE AGREED UPON

SUBSEQUENTLY BETWEEN THE TWO GOVERNMENTS FOR CONDUCTING THE ACTIVITIES OF THAT BODY.

3. THE OFFICE OF THE ASSISTANT LEGAL ADVISER FOR INTERNATIONAL CLAIMS HAS INITIATED ON A PRIORITY BASIS THE PROCESS OF REVIEWING, VERIFYING, DEVELOPING, PREPARING, INVESTIGATING AND ASCERTAINING THE VALIDITY OF ALL KNOWN CLAIMS OF US NATIONALS TO ENSURE THEIR COMPLIANCE WITH THE REQUIREMENTS OF CUSTOMARY INTERNATIONAL LAW ON CLAIMS FOR THEIR ESPOUSAL AND INTERPOSITION AGAINST THE GOE THROUGH DIPLOMATIC CHANNELS. DEPARTMENT MUST COMMUNICATE WITH EACH KNOWN CLAIMANT, WHEREVER POSSIBLE, TO UPDATE THE STATUS OF CLAIMS AND TO REQUEST ADDITIONAL DOCUMENTATION IN PREPARATION FOR NEGOTIATIONS WITH THE GOE. DEPARTMENT MUST ALSO GIVE NOTICE TO PUBLIC FOR FILING CLAIMS BY OTHER US NATIONALS WHICH HAVE NOT HITHERTO BEEN MADE KNOWN TO IT. UNAVOIDABLY, THIS IS A TIME CONSUMING PROCESS AND DOSSIER ON POSSIBLE US CLAIMS REQUESTED BY EMBASSY WOULD NOT BE AVAILABLE IMMEDIATELY OR IN THE NEAR FUTURE.

4. THE DEPARTMENT PERCEIVES A NUMBER OF ADVANTAGES IN THE FOLLOWING PROPOSED SCENARIO: (A) NEGOTIATIONS FIRST ON USG CLAIMS CAN BE INITIATED WITHOUT FURTHER UNDUE DELAY; (B) USG WOULD HAVE TIME TO DEVELOP AND PREPARE PRIVATE CLAIMS OF US NATIONALS WITHOUT HOLDING UP THE DESIRED MOMENTUM OF THE NEGOTIATIONS; (C) USG WOULD HAVE TACTICAL ADVANTAGE OF HANDLING AND PREPARING PRIVATE CLAIMS UNDER THE MOST ADVANTAGEOUS PROCEDURES; AND (D) USG COULD REACT TO GOE VIEWS IN THE MOST ADVANTAGEOUS MANNER.

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PAGE 03 STATE 186076

5. AS AN IMMEDIATE PRELIMINARY STEP, EMBASSY MIGHT SOLICIT THE VIEWS IN GENERAL OF DEPUTY PRIME MINISTER HEGAZI OR OTHER APPROPRIATE EGYPTIAN OFFICIALS, ON A FORMAL OR INFORMAL BASIS, ON THE FOLLOWING MATTERS: (A) COMPOSITION AND MEMBERSHIP OF THE JOINT COMMISSION/ COMMITTEE ON CLAIMS, WHICH SHOULD INCLUDE L REPRESENTATIVE; (B) APPROXIMATE DATES GOE WOULD BE PREPARED TO BEGIN ORGANIZATIONAL MEETING AND SUBSTANTIVE NEGOTIATIONS;

(C) SITE OR SITES AND FREQUENCY OF MEETINGS; (D) EGYPTIAN PREFERENCE FOR HANDLING USG AND PRIVATE CLAIMS OF US NATIONALS ON A LUMP-SUM BASIS, LEAVING THE DETAILS OF PAYMENT OF COMPENSATION TO US CLAIMANTS TO THE USG; (E) HANDLING OF CLAIMS ON CASE-BY-CASE BASIS ON FORMAL OR INFORMAL BASIS; (F) PROCESSING CLAIMS JOINTLY BY THE JOINT COMMISSION/COMMITTEE BY UNANIMOUS OR MAJORITY AGREEMENT AND REFERENDUM SUBJECT TO THE FURTHER APPROVAL OF BOTH GOVERNMENTS.

6. AFTER RECEIPT OF EGYPTIAN VIEWS, AT THE APPROPRIATE TIME DEPARTMENT WOULD SEND A REPRESENTATIVE FOR AN ORGANIZATIONAL MEETING TO PROPOSE, TO EXCHANGE FURTHER VIEWS, AND TO DISCUSS WITH GOE REPRESENTATIVES THE APPLICABLE LAW, DETAILED PROCEDURES FOR CONDUCTING THE ACTIVITIES OF THE JOINT COMMISSION/COMMITTEE, MAINTENANCE OF RECORDS, ALLOCATION OF EXPENDITURES, JOINT INVESTIGATION OF CLAIMS, AVAILABILITY OF TEXTS OF APPLICABLE EGYPTIAN LAWS, DECREES AND ORDERS, RULES OF EVIDENCE AND OTHER DETAILS.

7. IN LIEU OF DOSSIER ON POSSIBLE US CLAIMS DISCUSSED BY AMBASSADOR WITH DEPUTY PRIME MINISTER HEGAZI, DEPARTMENT WILL COMPILE AND TRANSMIT TO EMBASSY A SKELETON LIST OF CLAIMS OF US NATIONALS WHICH HAD BEEN COMMUNICATED TO THE GOE AND WHICH HAD BEEN HANDLED ON AN INFORMAL BASIS PRIOR TO 1967. INFORMAL SUBMISSION OF THIS LIST AT THIS TIME WILL ENABLE EGYPTIAN AUTHORITIES TO INITIATE THEIR "FACT GATHERING" REGARDING THOSE CLAIMS TO FACILITATE EXCHANGE OF RELEVANT INFORMATION BEFORE OR WHEN CASES ARE ACTUALLY CONSIDERED BY THE JOINT COMMISSION/COMMITTEE.

8. BLOCKED BANK ACCOUNTS AND CERTAIN OTHER CASES ON THE LIMITED OFFICIAL USE

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PAGE 04 STATE 186076

LIST ARE NOT PROPER SUBJECTS OF INTERNATIONAL CLAIMS. HOWEVER, AT THIS JUNCTURE THERE APPEARS TO BE NO HARM IN INCLUDING THEM IN THE INFORMAL RESUMPTION OF EXCHANGE OF INFORMATION SINCE THIS INVOLVES MATTERS THAT HAD FORMERLY BEEN HANDLED INFORMALLY UNTIL 1967 BETWEEN EMBASSY AND GOE. IF NECESSARY, BLOCKED ACCOUNTS AND CERTAIN OTHER CASES WOULD BE EXCLUDED FROM LATER FORMAL NEGOTIATIONS BEFORE THE JOINT COMMISSION/COMMITTEE. ON THE OTHER HAND, EGYPTIAN AUTHORITIES MIGHT BE JUST FLEXIBLE ENOUGH TO SETTLE THESE ACCOUNTS AND CASES AS WELL AS PART OF THE OVERALL SETTLEMENT.

9. USG WOULD BE PREPARED TO INITIATE SUBSTANTIVE CLAIMS NEGOTIATIONS IMMEDIATELY UPON AGREEMENT ON DETAILED PROCEDURES AND OTHER MATTERS REFERRED TO IN PARAGRAPHS 5

AND 6 ABOVE BY TAKING UP FIRST THE USG CLAIMS, SUCH AS THE DESTRUCTION OF THE USIA LIBRARY IN CAIRO, DAMAGE TO PROPERTY OF THE CONSULATE GENERAL IN ALEXANDRIA AND PORT SAID, AND THE CLAIM OF THE DEPARTMENT OF AGRICULTURE FOR FOOD FOR PEACE. EMBASSY SHOULD ALSO BE AWARE THAT THERE MAY BE OTHER POTENTIAL USG CLAIMS, FOR EXAMPLE, THE POTENTIAL CLAIM RELATING TO S.S. BRIDGEHAMPTON (STATE'S 14166, CAIRO'S 4849). US NAVY HAS ALSO REQUESTED DEPARTMENT TO CONSIDER THE POSSIBILITY OF FILING A CLAIM AGAINST THE GOE FOR THE LOSS OF S.S. AFRICAN GLEN WHICH MAY TOTAL AS MUCH AS FOUR MILLION DOLLARS. THIS CASE IS UNDER STUDY IN THE DEPARTMENT. AFTER THE COMPLETION OF NEGOTIATIONS OF THE USG CLAIMS, HOPEFULLY THE USG WOULD BE ABLE TO PROCEED WITH WHATEVER LIMITED NUMBER OF PRIVATE CLAIMS OF US NATIONALS WHICH MIGHT THEN BE READY FOR NEGOTIATION.

10. EMBASSY VIEWS AND REACTIONS ON FOREGOING WOULD BE APPRECIATED, TOGETHER WITH REACTIONS OF EGYPTIAN AUTHORITIES.

11. EMBASSY IS REQUESTED FURTHER TO TRANSFER TO THE DEPARTMENT, OFFICE OF ASSISTANT LEGAL ADVISER FOR INTERNATIONAL CLAIMS, ALL INQUIRIES RECEIVED BY EMBASSY REGARDING CLAIMS OF US NATIONALS. KISSINGER

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